

Mr. Colby:--

STATINTL

[REDACTED] dropped in early last week and asked to see you regarding his case. He apologized for bothering you on a matter so small as a \$350 reimbursement, commenting that the money did not really matter all that much, but he does have a few comments he would like to make ^{to} for you. I finally got his package from OGC, and I put [REDACTED] on your calendar at 3:30 on Monday, 19 Jan.

STATINTL

Barbara
17 Jan 76

16 January 1976

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT: [REDACTED] Claim for Reimbursement of
Cost of Shipping His Foreign-Made, Foreign-
Purchased Automobile

1. We have again reviewed the [REDACTED] claim in response to your question of whether you have the legal authority to waive the applicable Agency regulation in this case, [REDACTED]. In doing so, we had occasion to seek out some additional facts and have a conversation with [REDACTED] regarding his claim.

25X1A

25X1A

25X1A

2. As you know, the so-called congressional prohibition on the shipment of foreign-made, foreign-purchased POVs derives from House Report No. 92-1567, 10 October 1972, as an expression of congressional intent concerning the shipment by Government officers and employees of foreign-made, foreign-purchased automobiles. As we have advised before, the language of the Conference Report does not have the force of law and accordingly, you have the legal authority to waive the Agency regulation if you wish to do so. However, the additional facts discovered cause me to be even more certain that the previous OGC and DDA positions on this matter are correct.

3. We advised that the vehicle purchased by [REDACTED] was not only foreign-made but foreign-purchased and this determination is not, I believe, "overly technical." By law, under the Uniform Commercial Code there was no sale until the specific car was identified to the contract. Additionally, though not previously considered, it was a foreign purchase under applicable tax law. If this purchase had been a domestic purchase, the dealer was obligated to charge and [REDACTED] was obligated to pay, an excise tax on the vehicle which at the time was 10% of the purchase price. Because this was a foreign purchase, no excise tax was charged or paid as evidenced by the contract (copy attached) and by a statement from [REDACTED] to me. Further, no duty was paid on the car. as would have been the case if it had been a domestic purchase. Similar purchase plans -- order in the U.S. and pick up in Europe -- have been examined in depth by IRS. Some plans

25X1A

25X1A

E2 IMPDET

CL BY 058473

~~CONFIDENTIAL~~

have been found to be domestic purchases, others foreign purchases. Ordering the car in the United States, accepting delivery of it in Europe, and then keeping it in Europe for personal use for a period of time has been found to be a foreign purchase and not subject to the U.S. excise tax. In fact this excise tax saving of about \$200 plus the exemption from duty offsets in large part the cost of shipping which would have been paid had the car been a domestic purchase.

4. [REDACTED] and the Inspector General also gave considerable weight to the nature of the guidance which was given to the field on this regulatory change. On balance, it does not appear that the guidance was that bad, particularly in view of [REDACTED] statement in one of his memoranda that he could not have shipped his car before the deadline even if he had been fully aware of all the facts because he would have been without a car for the next eighteen months. In addition, a recently discovered dispatch shows that [REDACTED] was told over three months in advance of his PCS ship^{25X1A}ment, 28 June 1974, that he would not be permitted to ship his vehicle at Government expense (see a copy of [REDACTED] [REDACTED] 25X1A pseudonym is the one that begins with [REDACTED] 25X1A

5. In conclusion, [REDACTED] situation was no different ^{from} than that of any Government civilian employee serving overseas. He owned a foreign-made, foreign-purchased automobile which he was told he could not ship^{25X1A} at Government expense. If you choose to waive the regulation, you have the legal authority to do so. [REDACTED]

Deputy General Counsel

Attachment

~~CONFIDENTIAL~~

Next 3 Page(s) In Document Exempt

DCI DCI

Routing Slip

175-9945/8

TO:

		ACTION	INFO.			ACTION	INFO.
1	DCI			11	LC		
2	DDCI			12	IG		✓
3	S/MC			13	Compt		
4	DDS&T			14	Asst/DCI		
5	DDI			15	AO/DCI		
6	DD/SAS	✓		16	Ex/Sec		
7	DDO			17			
8	D/DCI/IC			18			
9	D/DCI/NIO			19			
10	GC		✓	20			

SUSPENSE

Date

Remarks:

Your point about
 not paying the US
 taxes is persuasive
 to me — Claim
 not accepted —

19 JAN 1976

assured him that he had done nothing
 wrong in making the claim —

IS